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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,779	08/02/2004	Tracey R. Thomas	03292.101970.6	4778
66569	7590	11/03/2009		
FITZPATRICK CELLA (AMEX)			EXAMINER	
1290 Avenue of the Americas			BASIT, ABDUL	
NEW YORK, NY 10104-3800				
			ART UNIT	PAPER NUMBER
			3694	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/710,779	THOMAS ET AL.	
	Examiner	Art Unit	
	ABDUL BASIT	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/31/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to Applicant's remarks and amendments received on 7/31/09. Based on the Applicant's response the 35 USC 101 rejection is withdrawn, but the 35 USC 103 rejection stands, and thus a final action on the merits is given.

Double Patenting

1. Claim 9 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. The Applicant is requested to amend or delete one of the claims.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vetter (US Pat. No. 5,716,211) in view of King (US Pat. No. 5,319,542)

Response to Applicant's Remarks

Applicant asserts that Vetter does not teach "user debt information related to existing user debts to payees." Further, Applicant asserts that Vetter does not teach a recommendation for a minimizing debt payments and maximizing user savings. Further, Applicant asserts that Vetter does not disclose a payment hierarchy that

Art Unit: 3694

allocates funds to a user savings account and a portion towards user debts. Based on an analysis of Vetter, the Office respectfully disagrees.

Vetter discloses a system/apparatus for placing funds in different budgetary accounts. According to Merriam Webster online dictionary (www.merriam-webster.com), debt is defined as "something owed." Further, budget is defined as "a statement of the financial position of an administration for a definite period of time based on estimates of expenditures during the period and proposals for financing them;" budgetary is the adjective. Thus, Vetter teaches an account that is based upon expenditures which suggests something owed. Expenditures, or debts, can be past, current or even future. Since the claim language of debt is broad, Vetter discloses "user debt information related to existing user debts to payees."

Further, budgetary, as previously discussed, suggests a financial position and thus teaches "minimizing debt payments and maximizing user savings."

Additionally, Vetter discloses a payment hierarchy that allocates funds to a user savings account and a portion towards user debts. Since Vetter discloses a budgetary account that takes into consideration debts and savings, Vetter also suggests a hierarchy that determines allocation. According to col. 2, lines 25-60, Vetter discloses its invention to calculate amounts for different budgetary accounts based on pre-selected percentages based on each account's purpose (also see col. 2, lines 12-20). Since each account has a different percentage, this implies an order and thus a hierarchy of allocation of funds.

Art Unit: 3694

Finally, the Applicant asserts that the King reference cannot be combined with Vetter, because the Vetter teaches a savings apparatus and King teaches a computer network.

Vetter discloses a savings apparatus that utilizes software and computer hardware; King discloses a feature that allows for updating data. Since it would be obvious to one of ordinary skill in the art at the time of the invention to upload data using a device that contains software and computer hardware, the two references can be used in a 103 rejection.

Regarding claims 1 and 9:

Vetter teaches a method of allocating income to a user savings account and to payees and monitoring a consumer's purchasing activity, said method including:

receiving user financial information in wherein said financial information includes user income information related to user income and user debt information related to existing user debts to payees; *(see at least col. 2 and 3 generally)*

providing at least one recommendation, wherein said recommendation includes suggestions for minimizing user debt payments and maximizing user savings, and wherein the recommendation is generated by the first computer system; *(see at least col. 2 and 3 generally)*

establishing a payment hierarchy based at least in part on said recommendation, wherein said payment hierarchy includes at least a portion of said user income allocated to said user savings account and a portion of said user income allocated to said existing user debts; *(see at least col. 2 and 3 generally)*

Art Unit: 3694

acquiring user income; transferring at least a portion of said user income, based at least in part upon said payment hierarchy, to said user savings account and at least one of said payees; establishing and storing budget information; (*see at least col. 2 and 3 generally*)

King, not Vetter, teaches a first computer system from a second computer system connected to the first computer system by a network (*see col. 6, lines 30-65*)

King, not Vetter, teaches uploading purchase data including a retailer item identifier from a retailer system; accessing a remote processor to standardize purchase data to correlate a budgeted item with an actually purchased item; and reconciling said budget information. (*see col. 2, lines 10-65*)

King, not Vetter, teaches that the method of claim 1, wherein said purchase data is standardized by translating a retailer item identifier into a manufacturer item identifier. (*see col. 2, lines 40-56*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vetter with King. Motivation to modify exists because using a budgeting system with real data, using a computer network, would provide a better method of allocating and understanding one's budget.

Regarding claim 2: Canceled

Regarding claim 3:

Vetter teaches allocating funds for said budget item. (*see col. 2 generally*)

Art Unit: 3694

King, not Vetter, teaches that the method of claim 1, wherein establishing and storing said budget information further comprises: accessing a remote processor to select a budget item; receiving a standard identifier for said budget item; storing said standard identifier; (*see col. 2, lines 40-56 and Fig. 1*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vetter with King. Motivation to modify exists because using a budgeting system with real data would provide a better method of allocating and understanding one's budget.

Regarding claim 4:

King, not Vetter, teaches that for the method of claim 3, wherein said budget item is selected by designating one of a product category and a specific product. (*see col. 2, lines 40-56 and Fig. 1*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vetter with King, because common knowledge indicates that an item can be designated in a product category.

Regarding claim 5:

King, not Vetter, teaches or suggest that for the method of claim 3, wherein said standard identifier is one of a retailer ID and a manufacturer item identifier. (*see col. 2, lines 40-56 and Fig. 1*). It would have been obvious to one of ordinary skill in the art at

Art Unit: 3694

the time of the invention to modify Vetter with King, because common knowledge indicates that an item can be designated in a product category.

Regarding claim 6:

Vetter teaches that for the method of claim 1, wherein uploading purchase data comprises using a device which includes a smart-chip. (*see col. 4, lines 30-45*)

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vetter (US Pat. No. 5,716,211) in view of Hardgrave (US Pat. No. 6,010,239)

Regarding claim 7:

Hardgrave, not Vetter, teaches that for the method of claim 6, wherein said device comprises one of a smartcard and a transponder. (*see col. 5, lines 29-46*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vetter with Hardgrave, because transponders/smartcards are common methods of transferring information.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vetter (US Pat. No. 5,716,211) in view of Foladare (US Pat. No. 5,914,472)

Regarding claim 8:

Foladare, not Vetter, teaches that for the method of claim 1, further comprising alerting at least one of a consumer and a third-party when a budget reconciliation determines that one of over-spending or under-spending has occurred. (*see abstract, and col. 2, lines 15-55*). It would have been obvious to one of ordinary skill in the art at the time of

Art Unit: 3694

the invention to modify Vetter with Foladare. Motivation to modify exists because preventing budget issues allows for lower fees and charges for customers and merchants.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ABDUL BASIT whose telephone number is 571-272-5506. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3694

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ab

/James P Trammell/
Supervisory Patent Examiner, Art Unit 3694